REMARKS

Reconsideration of the application is requested.

Claims 1-6, 8-13 and 15-27 remain in the application. Claims 1-6, 8-13 and 15-27 are subject to examination. Claims 1, 13 and 15 have been amended. Claims 7 and 14 have been canceled.

In item 6 on pages 4-7 of the above-identified Office Action, claims 13, 22-24 and 26 have been rejected as being obvious over the article entitled "Choices for Conservative Savers by Singletary" (hereinafter Singletary) in view of U.S. patent publication No. 2003/0065602 to Yip (hereinafter Yip) under 35 U.S.C. § 103.

The features of claim 14 have been incorporated into claim 13 and therefore the rejection is now believed to be mute.

In item 7 on pages 7-15 of the above-identified Office Action, claims 1-7, 14-21, 25 and 27 have been rejected as being obvious over the article titled Choices for Conservative Savers by Singletary (hereinafter Singletary) in view of U.S. patent publication No. 2003/0065602 to Yip

(hereinafter Yip) and further in view of U.S. patent publication No. 2002/0174045 to Arena et al. (hereinafter Arena) under 35 U.S.C. § 103.

The features of claim 7 have been incorporated into claim 1. Claim 7 has been canceled and amended claim 1 is believed to be allowable for the below stated reasons.

Singletary focuses on laddering CDs in order to maximize ones return from CDs as noted in paragraphs 0003, 0013. Initially a one-year CD, a two-year CD, a three-year CD, a four-year CD and a five-year CD are purchased. It is the goal of Singletary that all of the CDs eventually become five year CDs thus giving the maximum rate of return. Singletary does not concentrate on distribution of funds from the investment portfolio. Singletary does mention that money-market accounts should be used for money you may need in the short term [0016]. Singletary does identify the one-year CD as the first CD to be exhausted or flipped to a new five-year CD if it is not exhausted [0013]. Singletary does not concentrate on distribution of funds from the investment portfolio.

Amended claim 1 of the instant application now reads inter

alia:

> setting a size of the first portion, initially held in the first investment pool, to be large enough to handle anticipated distributions of cash flow needs <u>for at least three years</u> (emphasis added).

The Examiner states that Singletary teaches this by the above references to paragraphs 0013 and 0016. Singletary only teaches using a money market fund for short-term needs. Short-term is generally defined as less than one year and therefore cannot read on amended claim 1. In addition, the term "short-term" really has no definition in patent law and therefore has no weight if it is not further defined by the reference.

In contrast, amended claim 1 recites that the first portion contains funds for at least three years. This is not taught in any of the references cited by the Examiner.

The Examiner states that Singletary does not teach

> converting assets of the second investment pool into a fourth investment pool (seventh investment pool) having the assumed average first rate of return when the first investment pool <u>is exhausted</u> (emphasis added)

as recited in amended claim 1 or amended claim 13 of the

instant application.

The Examiner relies on Arena for teaching this feature. Arena teaches a rebalancing strategy configured to minimize transaction costs and to balance the account to the previously targeted risk level. Arena does not teach the distribution of funds from the investment portfolio, rather Arena teaches redistribution within the portfolio when risk levels have changed due to balances in the various investment pools changing over time.

The Examiner states that it would be obvious to rebalance the assets of Singletary using the teachings of Arena. It is noted that the heart or overall goal of Singletary is to get all of the investments to be five-year CDs in order to get the maximum CD rate. However, to rebalance, the Examiner is suggesting that Singletary would now rebalance and buy 1, 2, 3, and 4 year CDs, in addition to the five-year CD. Clearly, Singletary teaches **directly against** such a rebalancing. Therefore one cannot incorporate the teachings of Arena into Singletary, as the proposed combination changes the principle operation of the Singletary reference. As noted in MPEP 2143.01, it is impermissible to recite a combination that destroys the

principle operation of the main reference. The Examiner states that Singletary teaches earning "the greatest rate of return" and that the rebalancing taught in Arena is compatible. In order to obtain the greatest rate of return, all of the investments must be in one investment type (that providing the greatest return e.g. the five-year CD). However, Arena clearly teaches against this, as rebalancing lowers the rate of return in exchange for greater diversity and less risk. Therefore, Arena teaches purchasing the lower risk CDs, e.g. a one or two year CD. By the Examiner's own logic, Singletary and Arena are incompatible because Arena does not teach obtaining the greatest return. Arena teaches a clear risk – return balance.

Arena teaches rebalancing when the risk levels are no longer at a desired level. There are no teachings in Arena that teaches rebalancing when a given pool is exhausted. Neither Yip nor Singletary teach this feature either. Claims 1 or 13 recite the "rebalancing" only after the first pool is exhausted. Arena does not teach rebalancing due to exhaustion of a given fund (investment pool), rather rebalancing is performed only after a risk level change has occurred. For example, Arena teaches

that the rebalancing occurs when the portfolio mix violates an asset allocation ratio such as 60/40 stocks/bonds (see 0093-0095). If the allocation ratio is violated, a rebalancing occurs in that portfolio. Please note that the rebalancing is done portfolio wide. There is no teaching to rebalance only a subpart of the portfolio to create one investment pool to be exhausted first as recited in the claims of the instant application.

The invention of the instant application, hereinafter TEDI model, does incorporate a laddering strategy using various investment instruments (not just CDs) designed to add more risk as the time horizon increases (higher rates of returns for the longer term investment pools). The TEDI model emphasizes tax minimization by withdrawing principal and interest from funds from one pool and only one pool until all monies from that pool is exhausted. Of course that pool is designed to be the first to be exhausted. The other pools are designed knowing that they will not have cash withdraws for a given period of time. In the prior art references there is no discussion of tax minimization and/or efficiency in their processes, by one pool being designated to be exhausted first and the other pools are not concerned with distributions. Claim 13 has

been amended to support these arguments. Support for the changes to claim 13 come from page 5, lines 41-21, and page 14, lines 4-8 of the specification of the instant application.

In summary, there are no teachings in Arena or Singletary to rebalance the investment pools by "converting assets of the second investment pool into a fourth investment pool (seventh investment pool) having the assumed average first rate of return <u>only after the first investment pool is exhausted</u>" (emphasis added).

Applicant agrees that the concept of staggering or laddering pools of money is well known in the art. However, the invention of the instant application, the TEDI model, builds on the concept of laddering pools of money. The differentiator is basically the concept of principal exhaustion from one pool of monies at a time while the other pools can experience the compounding effect as well as tax-efficiency of not having to distribute taxable income until that pool of monies is called upon.

In item 8 on pages 16-17 of the above-identified Office

Action, claims 11 and 12 have been rejected as being obvious over the article entitled "Choices for Conservative Savers" by Singletary (hereinafter Singletary) in view of U.S. patent publication No. 2002/0174045 to Arena et al. (hereinafter Arena) under 35 U.S.C. § 103.

Regarding claim 11 of the instant application, claim 11 recites in part:

> designating a first investment pool of the investment pools to have an assumed average first rate of return being a lowest rate of return of all the investment pools and from which distributions are first withdrawn from, as needed, before withdrawing funds from any of the other investment pools; and
>
> converting at least part of the assets of a second investment pool having an assumed average second rate of return being a next lowest rate of return into a new investment pool <u>when the first investment pool is exhausted due to distributions</u>, the assets of the new investment pool being invested at a same assumed average rate of return as the first investment pool and being available for distribution.

Simply put, Arena does not teach rebalancing when a given pool <u>is exhausted</u>. In addition, Arena <u>does not</u> teach rebalancing of only the second investment pool for recreating a new exhaustion pool. Rather Arena dictates a

portfolio wide rebalancing.

For the above stated reasons, the Examiner is respectfully requested to withdraw the rejection.

In item 9 on pages 17-20 of the above-identified Office Action, claims 8-10 have been rejected as being obvious over the article entitled "Choices for Conservative Savers" by Singletary (hereinafter Singletary) in view of U.S. patent publication No. 2002/0174045 to Yip (hereinafter Yip) and further in view of U.S. patent publication No. 2004/0088236 to Manning (hereinafter Manning) under 35 U.S.C. § 103.

Manning teaches a computer program in which the user enters investments with various levels of return based on historical data for creating a customized portfolio. The user also enters a time span of years in which the investments are allowed to grow without distributions. The investor can also enter the year at which withdrawals begin and the amount of money to be withdrawn. From this data, the software determines how many years the investor will be able to withdraw given funds before the portfolio is exhausted [0035].

However, Manning does not teach designating a first investment pool, out of a plurality of other investment pools, in which the funds in the first investment pool are at least three times the annual amount to be withdrawn. Manning does not distinguish which investment pool is to be withdrawn from first. Simply put, the Examiner has fails to show a portfolio having a designated investment pool in which funds are first distributed from.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 1, 11 or 13. Claims 1, 11 and 13 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 1, 11 or 13.

In view of the foregoing, reconsideration and allowance of claims 1-6, 8-13 and 15-27 are solicited.

Please charge any other fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account

of Lerner Greenberg Stemer LLP, No. 12-1099.

Respectfully submitted,

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